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NO. 84-954

IN THE
Supreme Court of the United States
OCTOBER TERM, 1984

CITY OF PRAIRIE VIEW, TEXAS
and ERISTUS SAMS,
Petitioners

versus

ALVIN I. THOMAS,
Respondent

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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26 pp

QUESTIONS PRESENTED

(1) Whether a mayor's unconstitutional acts in furtherance of a city's sewage treatment project are attributable to the city when the city has given the mayor the final authority to define the city's goals regarding the project and to choose the means of achieving those goals.

(2) Whether a mayor who investigates and files a criminal complaint as mayor with malice and without probable cause and subsequently, as magistrate, issues an arrest warrant based on his own complaint, is liable under 42 U.S.C. § 1983 for injuries caused by his conduct.

LIST OF PARTIES

Petitioners' List of Parties is correct.

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BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Respondent Dr. Alvin I. Thomas respectfully prays that the Petition for Writ of Certiorari of Eristus Sams and the City of Prairie View, Texas be denied.

OPINION BELOW

The opinion of the Court of Appeals on appeal and cross appeal is reported as *Thomas v. Sams,* 734 F.2d 185 (5th Cir. 1984). The Court of Appeals opinion denying Petitioner Sams' Petition for Rehearing and Sug-

gestion for Rehearing en banc is reported as *Thomas v. Sams,* 741 F.2d 783 (5th Cir. 1984). Both opinions are reproduced in the Appendix to the Petition at A-18. The Trial Court's Findings of Fact and Conclusions of Law, Final Judgment and Order and Supplemental Findings of Fact and Conclusions of Law are reproduced in the Appendix to the Petition at A-22.

JURISDICTION

Petitioners' statement of jurisdiction is acceptable to Respondent.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case arises under the Fourth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. Petitioners have correctly stated the text of § 1983.

STATEMENT OF THE CASE

Proceedings Below

Respondent's complaint alleged violations of his rights under the Fourth and Fourteenth Amendments. The violations arose out of Dr. Thomas' arrest by Police Chief Booker T. Morgan pursuant to a warrant issued by Petitioner Sams as Magistrate on the strength of a complaint sworn out by Sams as Mayor. Sams and Morgan claimed absolute judicial immunity for their acts, and the City of Prairie View denied endowing Sams with the authority sufficient to render the City liable for his acts.

The Trial Court sitting without a jury found that Sams had acted with malice and without probable cause in vio-

lation of Dr. Thomas' Fourth Amendment rights. The Court held that Sams' non-judicial acts of investigating and filing the complaint as Mayor constituted action under color of state law sufficient to make him liable for Dr. Thomas' injuries. The Trial Court found no liability in Morgan and declined to hold the City liable for what it termed "strictly legal" acts of the Mayor. The Court denied Mayor Sams' Motion for New Trial, entering Supplemental Findings of Fact and Conclusions of Law which reiterated the holding that judicial immunity did not protect Sams from liability for acts done in his Mayoral capacity which set in motion an unbroken chain of events resulting in Dr. Thomas' unconstitutional arrest.

On appeal the Court of Appeals for the Fifth Circuit upheld the Trial Court's decision about Sams but found that, based on the record as a whole and the uncontradicted evidence, the Trial Court was clearly erroneous in failing to attach liability to the City. The Court of Appeals denied Sams' Petition for Rehearing, correctly applying the laws of Texas and the United States in holding that Sams' non-judicial acts were done under color of state law and pursuant to the policymaking authority delegated by the City.

Respondent's Statement of Facts

In May of 1978 the personal and political animosity between Mayor Sams and President Thomas [R. 32, Findings of Fact and Conclusions of Law, hereinafter "FF/CL"; Transcript, hereinafter "Tr.", 216-225] intruded upon the Mayor's conduct of the City of Prairie View's sewer-line dispute with the University and resulted in the unlawful arrest of President Thomas.

In 1972 the City of Prairie View and the Board of Directors of the Texas A & M University System, the governing body of Prairie View A & M, had agreed to a joint treatment plan for the sewage of the City and the University. The Board of Directors adopted a resolution agreeing to treatment of municipal sewage at the University's treatment plant with the understanding that the City would construct and maintain sewer lines across the school's land to gain access to the plant. [R. 33, (FF/CL); *See* PX 5] All parties, including Mayor Sams and the City of Prairie View, knew that the City had no authority to construct the pipelines until service rates were agreed upon and easements were approved by the Board of Directors, which, pursuant to State law, had the sole authority to grant easements. [R. 33, (FF/CL); *See* Tr. 33, 41, 209-211].

Uncontradicted testimony at trial established that as of May 1978, the City had failed to submit an acceptable engineering proposal for laying pipeline to connect with the University's sewage treatment plant. [R. 34, (FF/CL); *See* Tr. 80]. The City and Mayor Sams knew that approval was necessary before constructing any pipeline and that it had been denied. [R. 35, (FF/CL); *See* Tr. 80, 230, 302-303]. Nonetheless, in May 1978, Mayor Sams ordered the City contractor to enter University property and begin laying pipe according to a rejected plan which, among other inadequacies, called for the digging of a trench beneath the future site of the University chapel. [R. 35 (FF/CL); *See* Tr. 229-230, 363-364].

As Mayor, Sams informed his City Council that he ordered the digging to begin on University land and reported regularly to them on its progress. [Tr. 229]. Mayor Sams sent Police Chief Morgan to "see that the job kept

moving along" and to "let me [Sams] know if anything occurred." [Tr. 235-236; *See also* Tr. 364]. The digging was discovered once by University personnel who told the contractor that it was illegal and must stop. [Tr. 158-159, 175]. Subsequent to this interruption the City's engineer reopened negotiations with the University staff and admitted that he knew permission was required before construction could begin, but that Mayor Sams had ordered him to proceed regardless of the lack of approval. [R. 35, (FF/CL); *See* Tr. 90, 107].

On the Mayor's orders, the City's workers resumed digging a few days later under the eye of Police Chief Morgan. [Tr. 232-233]. University officials confronted Mayor Sams at the site of the illegal digging, warned him again that he could not dig until a plan was approved, and on the advice of the District Attorney read him the criminal trespass law. [Tr. 86, 132-135]. The Mayor replied that he was going to do it anyway [Tr. 88], but stopped the digging at that time and left. [Tr. 89].

Without bothering to seek the advice of the City's attorney [R. 44, (FF/CL)], Mayor Sams ordered the City's crew back onto the school's land to complete the line and hook into the University sewer system. [R. 35, (FF/CL)]. Mayor Sams announced the completion of the line and a planned water test through the line to City Council at its regular Monday night meeting on May 22, 1978. [DX 1]. Subsequently, the hookup was discovered and the University sent the City letters warning that the University would have to intersect the line if the City refused to disconnect it. [R. 36, (FF/CL); *See* Tr. 91-92]. When the City failed to act, Dr. Decatur Rogers, on or about May 27, 1978, had the lines cut and capped. [R. 36, (FF/CL); *See* Tr. 92].

Council member and Mayor Pro-Tem, Jack Echols witnessed the intersection of the line. He rushed to the nearby business of another council member to report the incident to Mayor Sams and later gave Sams a signed statement about the incident. [DX 1; Tr. 239-240]. This statement is reproduced at 1a-2a. After sending the Police Chief to investigate, Mayor Sams put on his other hat as justice of the peace and magistrate, swore out a warrant and ordered Morgan to arrest Dr. Rogers on May 30, 1978. [R. 36, (FF/CL); Tr. 238].

In his hat as investigator, Mayor Sams personally interrogated Dr. Rogers. On the basis of his statement that he intersected the pipe because "I had a job to do just like you have," [R. 36, (FF/CL); Tr. 286], Mayor Sams personally swore out a complaint against Dr. Thomas, President of the University, for ordering the cutting of the sewer pipes. [R. 36, (FF/CL); Tr. 272; PX 4]. Relying on his complaint which he signed "Mayor", Sams then put on his other hat as magistrate and issued a warrant for Dr. Thomas' arrest for "Coercion of Employees to Destroy City and Public Property . . ." [R. 36, (FF/CL); PX 13; Tr. 240]. The complaint and warrant are reproduced at 3a-6a.

When he issued the warrant Mayor Sams lacked any probable cause to believe that Dr. Thomas had committed the acts charged, or that any offense at all had been committed. [R. 39-41, (FF/CL)]. Moreover, Sams had no specific offense in mind. [Tr. 247].

Dr. Thomas was taken into custody in full view of his students and faculty [R. 37, (FF/CL)], and upon his arrival at City Hall, Mayor Sams came out of City Hall and said, "Get into my truck, I want to take you some-

where," (apparently meaning the construction site). [Tr. 312, 149]. When Dr. Thomas refused to go, Mayor Sams took him inside, interrogated him in front of an audience, and ultimately put on his magisterial hat and set a cash bond of $200.00. Later, Mayor Sams released a statement to the press, [Tr. 277, 282-3] but Plaintiff was never brought to trial. [Tr. 321].

SUMMARY OF THE ARGUMENT

The decision below was made after the Court of Appeals fully and fairly considered all issues of fact and law and decided the issues correctly. The Court applied the well established principles of law regarding individual and municipal liability under 42 U.S.C. § 1983 to a unique fact situation and arrived at the only result which is both consistent with those principles and fair to the parties. Petitioners are asking this Court to review factual findings which have substantial, uncontradicted support in the record. This case thus presents no legal questions of special importance which justify the granting of a writ of certiorari.

ARGUMENT

The City of Prairie View, Texas delegated to Mayor Sams the final authority in all matters relating to the sewage treatment project, including the removal of obstacles to the project's completion on the City's terms.

The City entrusted to Mayor Sams the entire conduct of the executory plan for joint treatment of sewage with the University. Mayor Sams was in charge of supervising

negotiations for the final engineering plan. As time went by with no agreement in sight, the sewage treatment plan became a matter of urgent concern to both the City and its Mayor. Knowing that University approval was an absolute prerequisite to the laying of pipe on University land, and knowing that the University had legitimately rejected the latest plan, the City Council received with approval Sams' report of the successful, secret, illegal completion of the line. The City not only ratified this unlawful act, but also looked forward to compounding the trespass by test-running water through the line. Although the University made formal demand for removal of the line, the City refused. When Councilman Echols witnessed the cutting and capping of the line, he rushed to another councilman's place of business, not to call an emergency City Council meeting, but to call the Mayor. The actual eyewitnesses did not swear out complaints; the Mayor did.

The facts are uncontradicated, and the Court of Appeals, in reviewing the Trial Court's finding of no municipal liability, was "left with the definite and firm conviction that the Mayor was 'the official to whom the law makers [had] delegated the policymaking authority' to decide whether a person who interrupted completion of the line would be arrested." *Thomas v. Sams,* 741 F.2d 783, 784 (5th Cir. 1984), *denying rehearing to* 734 F.2d 185 (5th Cir. 1984), *citing Bennett v. City of Slidell,* 728 F.2d 762 (5th Cir. 1984).

Bennett is the Fifth Circuit's refinement of the standards for establishing municipal liability under § 1983 which were first set out by this Court in *Monell v. Department of Social Services,* 436 U.S. 658 (1978). A city may be liable if the unconstitutional act or policy

was done or made by an official to which the city has given the authority to act or make policy. *Thomas,* 734 F.2d at 192. The *Bennett* Court defined a city policymaker as one who "decide[s] the goals for a particular city function and devise[s] the means of achieving those goals." *Bennett,* 728 F.2d at 769. The city supervises only the results of a policymaker's decisions, retaining financial control and final legal control in its ability to limit or revoke the delegated authority. *Id.*

Applying this definition and principle to the facts of this case, the Court of Appeals held that the City of Prairie View had delegated to the Mayor the authority to set the goals for the sewage treatment project and to devise the means of achieving the goals. *Thomas,* 734 F.2d at 192-93. Petitioners agree that this was a correct finding. The Court of Appeals then correctly held that the Trial Court's finding of no city liability was clearly erroneous. Reconsideration of this purely factual issue does not justify the granting of certiorari.

Petitioner's insistence that the City's liability must be based on formal authorization of a specific act by resolution at a council meeting is anachronistic in light of *Monell* and *Bennett.* Neither *Monell* nor its progeny requires that city authorization for a policymaker's acts be explicit or even express. The requirement is for either express authorization or that the city ". . . by its conduct or practice encourage or acknowledge the [Mayor] in a policymaking role . . . The governing body must expressly or impliedly acknowledge that the [Mayor] . . . acts in lieu of the governing body . . ." *Bennett,* 728 F.2d at 769. The evidence supports the characterization of Mayor Sams as the City's policymaker regarding the sewage treatment project.

Neither is Petitioner helped by an examination of Texas law, which, contrary to the City's inapposite analogy, does not require that a Mayor's individual acts be officially voted on, signed and sealed before the City can be said to have approved them. The applicable statute provides that, in addition to the enumerated duties, the mayor ". . . shall perform such other duties and possess and exercise such other power and authority as may be prescribed and conferred by the city council." Tex. Rev. Civ. Stat. Ann. art. 996 (Vernon 1963). As construed by the Attorney General of Texas, this statute allows the mayor to establish local policy unilaterally upon proper delegation of such policymaking authority, as does *Bennett*. Op. Tex. Att'y Gen. No. MW-563 (1982). Under Texas case law, where, as here, the mayor is given a power or duty by the city, the city has impliedly given the mayor the authority to do whatever is ". . . necessary to make that power effectual or essential to the performance of that duty . . .". *Nixon v. City of Houston*, 560 S.W.2d 447, 449 (Tex. Civ. App.—Houston [14th Dist.] 1977). This is also consistent with *Bennett* and *Monell*.

All the evidence in this case establishes that the city council authorized Mayor Sams to make policy regarding the sewage treatment project unilaterally. The Mayor was thus impliedly authorized to do all acts in furtherance of that policy, including removing any obstacles to completion of the project on the City's terms. The Court of Appeals correctly applied Texas and federal law in holding that the City of Prairie View was liable for the unconstitutional acts of its mayor.

Mayor Sams' acts of investigating and swearing out the complaint constituted action under color of state law under 42 U.S.C. § 1983.

The Court of Appeals resolved the Trial Court's equivocal characterization of Mayor Sams' non-judicial acts by a simple, common sense analysis. Sams signed the complaint as Mayor. The term "Mayor" appears twice on the complaint; clearly, Sams thought he was acting officially. Police Chief Morgan, Councilman and Mayor Pro Tem Echols, and the citizens who actually witnessed the events at the University all looked to Sams in his capacity as Mayor to do something about the situation. Even the Trial Court, in its Supplemental Findings of Fact and Conclusions of Law, defined Sams' behavior as "executive acts of misguided law enforcement." It is true that any private citizen who did not witness the cutting of the sewer line could have done what the Mayor did. But in Prairie View, Texas, even citizens who did witness the event chose to turn to their Mayor for official action, and he obliged by filing the complaint as Mayor.

Petitioner Sams' semantic problem with the difference between "governmental" and "private" action under § 1983 presents no question for this Court, which has defined actions under color of state law to be those actions which are "fairly attributable" to the state. *Lugar v. Edmondson Oil Co.*, ____U.S.____, ____, 102 S.Ct. 2744, 2754 (1982). This determination is made in two parts. First, the constitutional deprivation must be the result of the exercise of a right or privilege with its origins in state law. Second, the person accused must be fairly said to be a state actor, either because he is a state official, because he has acted in concert with state officials, because he has received "significant aid" from state of-

ficials, or because his acts are "otherwise chargeable to the state." *Id.* Private parties who act in collusion with state officials are therefore considered to be state actors for purposes of § 1983. *Id.*, at 2756; *Tower v. Glover*, ____U.S.____, ____, 104 S.Ct. 2820, 2824 (1984); *Dennis v. Sparks*, 449 U.S. 24, 27-28 (1980). Whether Sams acted as Mayor or as a private citizen, he was acting under color of state law, by virtue of his own official position or his acts in concert with Councilman Echols and Police Chief Morgan and even with himself in his capacity as Magistrate.

Mayor Sams' filing of the complaint with malice and without probable cause was a violation of Dr. Thomas' rights under the Fourth Amendment and is actionable under 42 U.S.C. § 1983.

Mayor Sams' act of filing the complaint with malice and without probable cause set in motion a chain of events which resulted in Dr. Thomas' arrest in violation of his Fourth Amendment rights, as extended to the states by the Fourteenth Amendment. Had the Mayor chosen to present his hearsay-based complaint to a neutral and independent magistrate, Dr. Thomas would not have been arrested, and this lawsuit would not have been necessary, because an impartial intermediary's independent decision as to probable cause "breaks the causal chain and insulates the initiating party." *Smith v. Gonzales*, 670 F.2d 522, 526 (5th Cir. 1982), *cert. denied*, 459 U.S. 1005 (1983), *citing Rodriguez v. Ritchey*, 556 F.2d 1185, 1193 (5th Cir. 1977), *cert. denied*, 434 U.S. 1047 (1978). The Court of Appeals properly separated Sams' judicially immune act of issuing the warrant from his non-immune act of filing the complaint and determined his liability

accordingly. *Brewer v. Blackwell,* 692 F.2d 387, 396 (5th Cir. 1982); *Crowe v. Lucas,* 595 F.2d 985, 990 (5th Cir. 1979). *Cf. Baker v. McCollan,* 443 U.S. 137, 145 (1979) (The reasonable division of functions between executive and judicial officers is entirely consistent with due process of law.). As the Court of Appeals concluded, "Sams's theory is sound, but its application in this case is flawed." *Thomas,* 734 F.2d at 190. The Court of Appeals' decision was a necessarily narrow one dealing with an unusual fact situation and hardly opens the door to federal lawsuits every time a criminal proceeding is improperly initiated. The door was opened in this case because the proceeding was improperly initiated and improperly concluded by the same person.

Nor does the Fifth Circuit's opinion imply that every injury in which a state official takes part is actionable under § 1983. This case involves a violation of Dr. Thomas' right under the Fourth Amendment to be free from arrest without probable cause, and is actionable under § 1983. *Parratt v. Taylor,* 451 U.S. 527, ____, 101 S.Ct. 1908, 1913 (1981); *Baker v. McCollan; Augustine v. Doe,* 740 F.2d 322 (5th Cir. 1984); *Garris v. Rowland,* 678 F.2d 1264 (5th Cir. 1982); *Llaguno v. Mingey,* 739 F.2d 1186, 1193 (7th Cir. 1984) (the exigencies of the moment may sometimes excuse the lack of a warrant; they can never excuse the lack of probable cause); *McKenzie v. Lamb,* 738 F.2d 1005 (7th Cir. 1984); *Guenther v. Holmgren,* 738 F.2d 879 (9th Cir. 1984); *Losch v. Borough of Parkesburg, Pa.,* 736 F.2d 903, 907 (3rd Cir. 1984) (". . . the filing of charges without probable cause and for reasons of personal animosity is actionable under § 1983.").

Petitioner Sams has quoted various § 1983 cases, including *Parratt* and *Baker,* out of context in order to create an issue where none exists. *Parratt* concerned a violation of procedural due process, and this Court concluded that where adequate state remedies for such violations existed, the injured party must seek those remedies rather than redress under § 1983. The *Parratt* Court recognized the difference in the minimal violation of the prisoner's property rights and substantive violations of constitutional guarantees. *Parratt,* 101 S.Ct. at 1913. Substantive violations are actionable regardless of the state process available because the unconstitutionality is in the act itself, no matter what process is available for its redress. *Augustine,* 740 F.2d at 326-27 (Fourth Amendment); *Thibodeaux v. Bordelon,* 740 F.2d 329, 333 (5th Cir. 1984) (Eighth Amendment). This is consistent with this Court's recent decision in *Hudson v. Palmer,* ____U.S.____, 104 S.Ct. 3194 (1984), holding the *Parratt* rule applicable to intentional deprivations of property, as made clear by Mr. Justice Stevens in his concurrence. *Hudson,* 104 S.Ct. at 3208 & n.4.

Even without benefit of its own definitive analysis in *Augustine,* the Fifth Circuit correctly made the distinction between common law and constitutional torts, and held Mayor Sams liable for his unconstitutional acts.

CONCLUSION

Respondent respectfully submits that Petitioners have wholly failed to sustain their burden under Rule 17 of establishing that there are special and important reasons why the writ should be granted. The decision below did not involve an important question of federal law which has not been, but should be settled by this Court; nor has the Court of Appeals decided a federal question in a way to conflict with applicable decisions of this Court or of another Court of Appeals on the same matter. The Court of Appeals applied well-established principles of law to the unusual facts of this case in reaching its fair and correct decision. For all the foregoing reasons, Respondent prays that the Petition for Writ of Certiorari to the Fifth Circuit be denied.

Respectfully submitted,

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(713) 650-0252

Attorney for Respondent

DEFENDANTS' EXHIBIT 1

"Dx 1"

Mayor Eristus Sams
City of Prairie View
Prairie View, Texas 77445

Re: An Eyewitness Account of what I saw on May 27, 1978, in the Cutting and Destroying of City and Public Property

Dear Mayor Sams:

As a duly elected City Official and appointed Mayor-Pro-Tem by the City Council, which is required by state law for any General City Law, I hereby wish to report the following incident which I witnessed on the morning of Saturday, May 27, 1978:

1. I went to the U. S. Post Office at approximately 8:30 A.M., which is located on the Prairie View A& M University campus. On my way out of the Post Office, I looked across the campus, about ½ mile south of where I was standing, and noticed a lot of activity with a back-hoe and campus laborers working very rapidly within the vicinity of the location where the city had installed a new 6 inch sewerage line, crossing the south edges of the campus. Knowing that the contractors had completed the said installation of the sewerage force line, and the Mayor had also notified the City Council of the completion of the line in the last regular Council Meeting on May 22, 1978, my concern was aroused as to what all the further activity was all about. I decided to drive around to the vicinity from where I stood, which was about 3/4 mile to investigate. It was necessary to follow the road around the campus to reach the spot. I found the crew working very rapidly, and about the time I reached the area the back-hoe crew was moving to another section of the sewerage line area where the city crossed under F.M. 1098 Loop Road on the Southwest area, across the road in front of Mr. Madison Kilpatrick's home. Mr. Kilpatrick and his son witnessed the cutting of a four inch force line, which had been completed for use.

2. Dr. Decatur Rogers of Prairie View A & M Univesity was in charge of the wrecking or digging and cutting crew, which were using a saw steel blade to cut and remove several pieces of pipe.

Mr. Booker T. Morgan, City Chief of Police was contacted and told of the activity. He came on the scene and talked with Mr. Kilpatrick and me about the offense. I hurriedly left the scene and sped in my car to the Exxon Service Station on U. S. 290 Highway, operated by Councilman T. R. Lawson, where an attempt was made to contact the Mayor to officially report the offense.

Respectfully yours,

Jack W. Echols
Signed & Sworn by Councilman and Mayor-Pro-Tem

See page 2 for Notary Signature

Dx-5 8-17-81

City of Prairie View
SEAL

Margie M. Lewis
Attest: City Secretary

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Sworn to and subscribed before me this 29th day of May
1978.

Margie M. Lewis Notary Public in and for Waller
County Texas. My Commission expires 10-4-79

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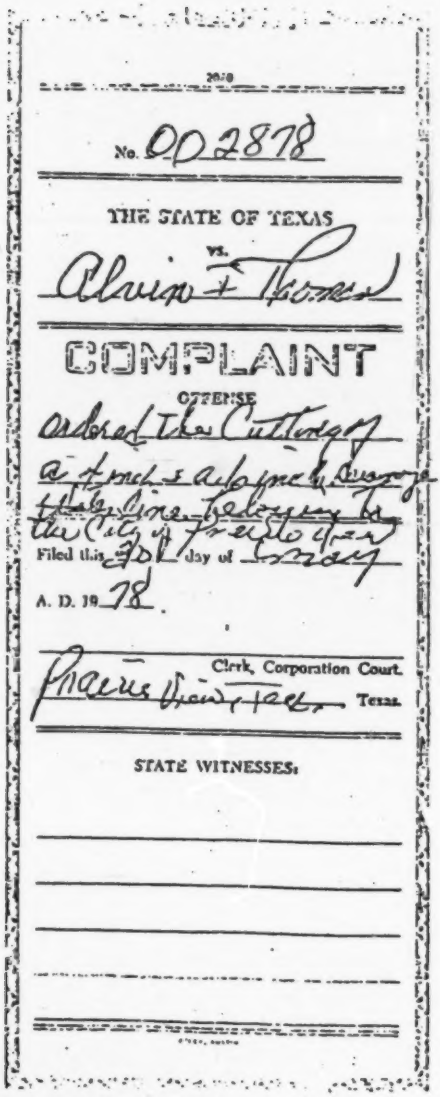
PLAINTIFF'S EXHIBIT 14



2010

No. 002878

THE STATE OF TEXAS

vs.

Alvin F Flores

COMPLAINT

OFFENSE

ordered the Cutting of
a tree & obstruction Driveway
the Line Telephone in
the City of Freeport Texas

Filed this 20th day of May

A. D. 19 78.

Clerk, Corporation Court.

Phares Brandt Jr. Texas

STATE WITNESSES:

ABLE COPY

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

I, Eurstus Sams (Mayor), being duly sworn, do state upon my oath that:

[1] I have personal knowledge

[1] I have good reason to believe and do believe based upon the following information:[2]

and I charge that heretofore, and before the making and filing of this complaint, on or about the 30 day of May, 19 78, in the City of Pauline Dam in Waller County and State of Texas, Defendant did then and there unlawfully Ordered The Cutting of a 4 inch and a half inch power cable belonging to the City of Pauline Dam

[1] Contrary to the Ordinances of said City, and

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Eurstus Sams
Complainant

SWORN TO AND SUBSCRIBED BEFORE ME by Robert T. Morgan a credible person, this 30 day of May, A. D. 19 78.

Eurstus Sams
Mayor
(Title)

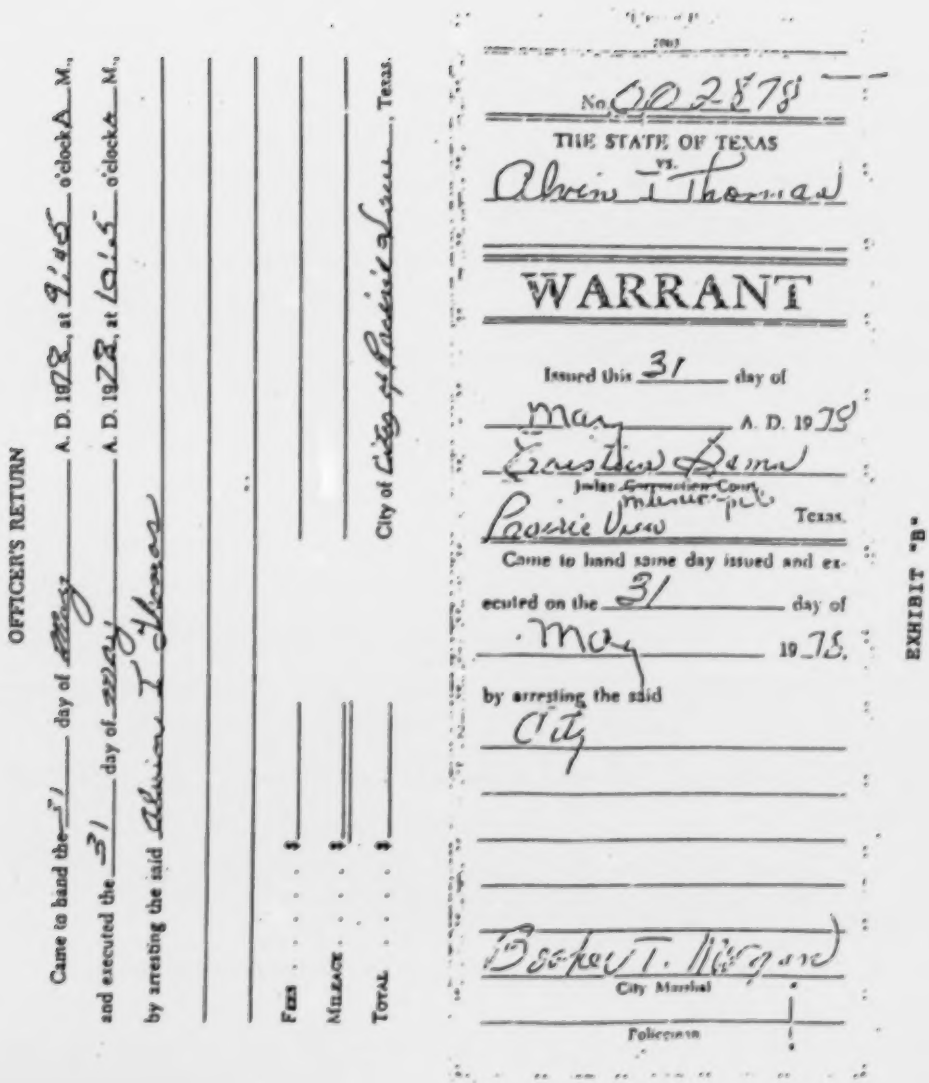
(City and/or County) Texas

[1] Strike if not applicable.

[2] Set forth the facts upon which the complainant bases his belief if he does not have personal knowledge.

BEST AVA

PLAINTIFF'S EXHIBIT 13



No. 002878

THE STATE OF TEXAS

vs.

Alvin I Thomas

WARRANT

Issued this 31 day of

May A. D. 1978

Lucius Lamar

Justice Corporation Court

Laurie Vann Municipal Texas.

Came to hand same day issued and executed on the 31 day of

May 1978,

by arresting the said

City

Booker T. Morgan

City Marshal

Policeman

OFFICER'S RETURN

Came to hand the 31 day of May A. D. 1978, at 9:45 o'clock A. M., and executed the 31 day of May A. D. 1978, at 10:15 o'clock M., by arresting the said Alvin I Thomas

Fees . . . . . $

Mileage . . . . . $

Total . . . . . $

City of City of Pinehurst, Texas.

EXHIBIT "B"

LABLE COPY

THE STATE OF TEXAS

County of Waller
City of Prairie View

The State of Texas to the Chief of Police, Marshal, or any policeman in Prairie View, Texas—Greeting:

WHEREAS, Complaint under oath in writing has been made before me, charging that in the City of Prairie View, County of Waller and State of Texas, on the 30 day of May, A. D. 19 78 Alvin T. Thomas did commit the offense of Carrying Explosives to Destroy City Property, Digging up of such, and a Knife Sharpener, Which Belongs to the City of Prairie View, Texas contrary to the statutes in such cases made and provided, and against the peace and dignity of the State and against the Ordinances of the City of Prairie View, Texas.

THESE ARE THEREFORE TO COMMAND YOU to arrest the said Alvin T. Thomas and immediately bring him before the Judge of the Municipal Court in the City of Prairie View, Texas to answer said complaint.

HEREIN FAIL NOT, but due service and return make of this Writ as the law directs.

Given under my hand at office this the 31 day of May, A. D. 19 78

Ernestine Jones Judge, Municipal Court Prairie View, Texas.

BEST AVAILABLE COPY